



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

enjoined to protect the interests of a claimant who had not been made a party thereto; but, in the principal case, it is apparent that any substantial right which the complainant could urge in support of his claim, would be available as a defense in the suit sought to be enjoined. Under such circumstances it is clear that equity has no jurisdiction. *Pond v. Harwood*, 139 N. Y. 111, 34 N. E. Rep. 768; *Erie R. R. v. Ramsey*, 45 N. Y. 637; *Hall v. Fisher*, 1 Barb. 53; *Ellsworth v. Cook*, 8 Paige 643; *Saxton v. Wyckoff*, 6 Paige 182.

ESTATES OF DECEDENTS—FUNERAL EXPENSES OF MARRIED WOMAN—LIABILITY OF SURVIVING HUSBAND.—The administrator of a deceased married woman was sued to recover a sum alleged to be due as part of her funeral expenses. The husband of the deceased was living at the time of her death. *Held*, that when a woman dies leaving a husband surviving, the husband is primarily liable and not the separate estate of the deceased for the payment of her funeral expenses. *Kenyon v. Brightwell* (1904), — Ga. —, 48 S. E. Rep. 124.

It was the duty of the surviving husband at common law to provide a funeral for his deceased wife in keeping with his social position, and he was liable to third persons incurring expenses for this purpose. *Jenkins v. Tucker*, 1 H. Bl. 90; *Bradshaw v. Beard*, 12 C. B. N. S. 344; *Ambrose v. Kerrison*, 10 C. B. 776. An interesting question has been raised in several of the states as to the effect of the legislation creating separate property rights in married women upon the liability of the surviving husband for the funeral expenses of his deceased wife. The decisions are not altogether in harmony on this point, but the weight of authority seems to be that the surviving husband remains primarily liable as at common law, the liability being based upon the duty of the husband to furnish necessities for the wife. *Brand's Exr's v. Brand*, 109 Ky. 326; *Smyley v. Reese*, 15 Ala. 90; *Staple's Appeal*, 52 Conn. 425. This liability is made in a few states to depend upon the solvency of the surviving husband. *Galloway v. McPherson*, 67 Mich. 546; *Scott's Estate*, 15 Pa. Co. Ct. 67. In other jurisdictions the statutory provisions for the payment of decedent's debts specifying funeral expenses have been construed to apply to the estates of deceased married women. *Buxton v. Barrett*, 14 R. I. 40; *McClellan v. Filson*, 44 Ohio St. 184; *Constantinides v. Walsh*, 146 Mass. 281. This case is of especial interest from the fact that it raises the question for the first time in the state of Georgia and also from the fact that while the statutory provisions for the payment of decedent's debts in Georgia are very similar to those in Massachusetts, Rhode Island and Ohio, they are construed differently.

EXECUTOR DE SON TORT—RIGHT TO EQUITABLE RELIEF.—Decedent's son was appointed administrator by a court lacking jurisdiction, and in good faith entered upon the administration of the estate. Against an action by the legal administrator for conversion of the property he interposed a cross bill in equity in which he sought to be credited for expenses, fees, etc. *Held*, that the cross bill must be dismissed. *Slate v. Henkle* (1904) — Ore. —, 78 Pac. Rep. 325.

Although the harshness of the common law respecting executors *de son tort* has been considerably modified, especially in favor of those whose action is bona fide, still there is little authority for extending them relief in equity. In one state, at least, such relief seems allowable, where the assets have been applied for the benefit of those entitled under legal administration. *Brown v. Walter*, 58 Ala. 310. The general rule, however, is, that in actions like the principal case, the only method of obtaining relief for the executor *de son tort* is to prove, under the general issue, such payments, in mitigation of damages, as have been made by him in behalf of the estate; in which case recoupment will be allowed for such as are held to be for the benefit of the estate, if there is no deficiency of assets. *Tobey v. Miller*, 54 Me. 480; *Reagan v. Long*, 21 Ind. 264; *Glenn v. Smith*, 2 Gill & Johns. 493, 513. That such a rule will work injustice to an executor *de son tort* who stands in a position of especial merit seems inevitable, but it appears to be too well established on authority to admit of exception. See on the general subject WILLIAMS ON EXECUTORS, 7th Am. Ed., Vol. I, p. 298, et seq. WOERNER, AM. LAW OF ADMINISTRATION, Vol. I, § 195.

FOREIGN CORPORATIONS—DOING BUSINESS IN STATE—FAILURE TO COMPLY WITH STATE LAWS—VALIDITY OF CONTRACT.—The plaintiff, a foreign corporation, set up business in Colorado with defendant in charge, who sold goods on commission and under contract. A statute (1901) forbids a corporation to do any business or prosecute or defend any suit until the usual tax on its capital stock has been paid and an agent has been designated upon whom service of process can be made. *Held* (1) that plaintiff was doing business in Colorado, though the goods were manufactured in another state; (2) that plaintiff not having complied with the statute, has no right of action on the contract. *United States Rubber Company v. Butler Bros. Shoe Co.* (1904) (C. C. D., Colo.), 132 Fed. Rep. 398.

The court takes the view that a foreign corporation, bringing goods into the state to be sold in the general market on commission is not engaged in inter-state commerce but is located and doing business in the state. See contra *Allen v. Buggy Co.*, 91 Texas 22, 40 S. W. Rep. 393; *People v. Roberts*, 48 N. Y. Supp. 1028, 25 App. Div. 13; *Mineral Co. v. Clute*, 27 N. Y. Supp. 342, 7 Misc. Rep. 123. This case is to be distinguished from *John Deere Plow Co. v. Wyland et al.*, 76 Pac. Rep. 863, in that in the latter case the plaintiff kept no goods in the state, but merely maintained resident agents through whom orders were solicited, which were subject to acceptance or rejection by the plaintiff in a foreign state. See 3 MICH. LAW REV., p. 72. The court in the principal case correctly says that under the inter-state commerce clause the foreign corporation could sell its wares to any purchaser in the state of Colorado without let or hindrance from the state authorities, so long as the corporation did not establish a local business. *Blevins v. Fairley*, 71 Mo. App. 259. That such restrictions are valid where the corporation is not engaged in inter-state commerce is unquestioned. *Ashland Lumber Co. v. Detroit Salt Co.*, 114 Wis. 66, 89 N. W. Rep. 904, 908. Yet the act does not expressly declare contracts made in violation